

United States District Court
District of Massachusetts

United States Fidelity and Guaranty Company,)

Plaintiff)

v.)

Paul A. Bordieri and Andrea Costa,
Trustees of Jackson Construction Company,
Paul A. Bordieri, Individually,)

Defendants)

CASE # 05 - 11397-NMG

and)

Sovereign Bank of New England, NA,
Appleton Partners, Inc. and
Cambridge Appleton Trust, NA,)

Trustee Process Defendants)

DEFENDANTS' MOTION TO CONTINUE TRIAL DATE

Pursuant to Local Rule 16.1(G) ("Modification of Scheduling Order"), the Defendants, Paul A. Bordieri and Andrea Costa, Trustees of Jackson Construction Company, and Paul A. Bordieri, Individually, hereby file this Motion to Continue the trial of this case, currently scheduled for January 23, 2006, for a period not to exceed two weeks.

As grounds for this motion, the defendants state they have good cause for requesting a brief postponement of the trial date.

1. The parties have been engaged in settlement discussions and are close to achieving a settlement agreement. However, the Defendants request the assistance of a Magistrate Judge to determine whether settlement is possible and to reach agreement on the final terms and conditions of a settlement

agreement.

2. The Court entered a Scheduling Order in this case as follows:

Written Discovery Requests Filed By:	August 31, 2005
All Fact Depositions To Be Completed By:	September 30, 2005
Expert Depositions To Be Completed By:	November 15, 2005
All Dispositive Motions:	December 15, 2005
Final Pretrial Conference By:	January 12, 2006
Commencement of Trial:	January 23, 2006

3. In accordance with the Scheduling Order, the parties conducted written discovery, produced and reviewed thousands of documents.

4. The parties began settlement discussions in or about October 2005. In late November or early December, as a result of these discussions, the parties reached an agreement in principle which would result in the settlement of all claims and dismissal of this case.

5. Since that time, the parties have been engaged in attempting to reach an agreement on the terms of a settlement agreement, but have been unable to reach a final agreement on terms.

6. Continuing the trial date is necessary to allow the parties time to achieve a settlement agreement with the assistance of the Magistrate Judge.

7. In keeping with the Federal Court's policy of encouraging settlements between the parties and case resolution, the Defendants request that the Court allow their motion.

WHEREFORE, the Defendants request that:

1) The Court continue the trial in this matter for two (2) weeks;

- 2) The Court refer the matter to Magistrate Judge Bowler for settlement facilitation; and
- 3) The Court grant such other relief as is just and appropriate.

RULE 7.1(A)(2) CERTIFICATION OF COUNSEL

Pursuant to Locla Rule 7.1(A)(2), counsel certifies that he has conferred and has attempted in good faith to resolve or narrow the issue presented by this motion and has not obtained assent from all the parties to the motion.

Company Paul A. Bordieri and Andrea J. Costa
Trustees of Jackson Construction

and Paul A. Bordieri, Individually
By Their Attorney,

Dated: January 19, 2006

/s/ Kieran B. Meagher
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CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of January, 2006 that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non registered participants on January 19, 2006.

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Meagher /s/ Kieran B.
Kieran B. Meagher